

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LIBERTARIAN PARTY OF OHIO, et al.,	:	
	:	
Plaintiffs,	:	Civil Action 19-2501
	:	
v.	:	Judge Algenon L. Marbley
	:	
DEGEE WILHELM, et al.,	:	Magistrate Judge Kimberly A. Jolson
	:	
Defendants.	:	

RULE 26(f) REPORT

Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held on Thursday, August 1, 2019, and was attended by:

<u>Mark R. Brown,</u>	counsel for plaintiff, Libertarian Party of Ohio,
<u>Mark R. Brown,</u>	counsel for plaintiff, Harold Thomas,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, Degee Wilhelm,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, Helen E. Balcolm,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, Otto Beatty, III,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, Dennis Brommer,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, D. Michael Crites,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, Catherine A. Cunningham,
<u>Tiffany L. Carwile, Andrew Fraser,</u>	counsel for defendant, A. Scott Norman.

Counsel represents that, during the meeting, they engaged in a meaningful attempt to meet and confer on the matters outlined below.

1. CONSENT TO MAGISTRATE JUDGE

Do the parties consent to Magistrate Judge Jurisdiction pursuant to 28 U.S.C. § 636(c)?

 Yes X No

2. INITIAL DISCLOSURES

Have the parties agreed to make initial disclosures?

 X Yes No The proceeding is exempt under Rule 26(a)(1)(B)

If yes, such initial disclosures shall be made by September 1, 2019.

3. VENUE AND JURISDICTION

Are there any contested issues related to venue or jurisdiction?

 X Yes No

If yes, describe the issue:

Defendants assert that the Court lacks personal jurisdiction over the defendants and that the Court lacks subject matter jurisdiction over the suit.

If yes, the parties agree that any motion related to venue or jurisdiction shall be filed by July 29, 2019.

Said motion has been filed and fully briefed as of July 29, 2019.

4. PARTIES AND PLEADINGS

- a. The parties agree that any motion or stipulation to amend the pleadings or to join additional parties shall be filed by September 1, 2019.
- b. If the case is a class action, the parties agree that the motion for class certification shall be filed by.

5. MOTIONS

- a. Are there any pending motion(s)?

 X Yes No

If yes, indicate which party filed the motion(s), and identify the motion(s) by name and docket number:

Defendant on July 12, 2019 filed a Motion to Dismiss under Rule 12, Doc. No. 7.

Plaintiffs filed a Motion for Summary Judgment on June 28, 2019, Doc. No. 6.

- b. Are the parties requesting expedited briefing on the pending motion(s)?

 Yes X No

If yes, identify the proposed expedited schedule:

The briefing on the Motion to Dismiss is complete, and briefing on the Motion for Summary Judgment has been stayed.

6. ISSUES

Jointly provide a brief description of case, including causes of action set forth in the complaint, and indicate whether there is a jury demand:

There is no jury demand, this being an official capacity action filed against the Defendants for alleged violations of the First and Fourteenth Amendments to the Constitution. Plaintiffs alleged that Defendants, collectively the Ohio Elections Commission, are unconstitutionally constituted under the First Amendment because its membership, as specified by Ohio law, prohibits members of minor-political-parties, including the Libertarian Party of Ohio, from serving as Commissioners. Plaintiffs further allege that the Ohio Elections Commission's dismissal of administrative complaints filed by the Libertarian Party of Ohio against the gubernatorial campaigns of the two major political parties was based on political favoritism for the two major political parties in violation of the First and Fourteenth Amendments to the United States Constitution.

7. DISCOVERY PROCEDURES

a. The parties agree that all discovery shall be completed by September 30, 2019.

The parties agree to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call -in number.

b. Do the parties anticipate the production of ESI?

_____Yes X No

If yes, describe the protocol for such production:

c. Do the parties intend to seek a protective order or clawback agreement? **No.**

If yes, such order or agreement shall be produced to the Court by _____.

8. DISPOSITIVE MOTIONS

a. Any dispositive motions shall be filed by December 20, 2019.

b. Are the parties requesting expedited briefing on dispositive motions?

_____Yes X No

If yes, identify the proposed expedited schedule:

9. EXPERT TESTIMONY

- a. Primary expert reports must be produced by_____.
- b. Rebuttal expert reports must be produced by_____.

10. SETTLEMENT

The Parties agree that this case is not suitable for settlement as it involves a challenge to a state statute.

11. RULE 16 PRETRIAL CONFERENCE

Do the parties request a scheduling conference?

_____ Yes, the parties would like a conference with the Court prior to it issuing a scheduling order. The parties request that the conference take place by:

_____ telephone _____ in chambers.

X No, a conference is not necessary; the Court may issue a scheduling order after considering this Report.

12. OTHER MATTERS

Indicate any other matters for the Court's consideration:

The Defendants maintain that this Court does not have personal jurisdiction over them and that Plaintiffs have not sufficiently served the Defendants. Defendants' participation in this Report and agreement to dates should not be construed as a waiver of Defendants' objections to personal jurisdiction or service, but merely as compliance with the Federal Rules of Civil Procedure and this Court's order dated August 9, 2019, which require the parties to submit this Report to the Court.

The Parties hereby consent in writing by signing this Report that discovery requests and responses may be electronically delivered to and between the Parties using their respective electronic mailing addresses on file with the Court's CM/ECF Electronic Case Filing System.

Signatures:

Attorney for Plaintiff(s):

/s/ Mark R. Brown

MARK R. BROWN
Bar #0081941

Attorney for Defendant(s):

/s/ Tiffany L. Carwile

TIFFANY L. CARWILE
Bar # 0082522

/s/ Andrew Fraser

ANDREW FRASER
Bar # 0097129

Date: August 13, 2019